

AMENDMENT UNDER 37 CFR § 1.111
Serial No. 09/489,929

REMARKS

Reconsideration of this application is requested.

As a result of the foregoing amendments, a total of 54 claims remain in the present application. Claims 1, 18, 21, and 41 have been amended. No new claims have been introduced.

The foregoing amendments are presented in response to the Office Action mailed February 26, 2003, wherefore reconsideration is respectfully requested. Referring now to the text of the Office Action:

- (a) claims 1-4, 6-13, 14-18, 21-24, 26-32, 34-38, 41-44, 46-48 and 50-52 stand rejected under 35 U.S.C. § 102(b), as being anticipated by United States Patent No. 5,535,429 (Bergenlid et al.);
- (b) claims 5, 25 and 45 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 5,535,429 (Bergenlid et al.); and
- (c) claims 19-20, 39-40 and 53-54 are objected to as being dependent on a rejected base claim.

Such rejections are respectfully traversed, based on the discussion below.

Applicant appreciates the Examiner's continued indication of allowable subject matter in claims 19-20, 39-40 and 53-54.

Action After Final

Applicant notes that the present Office Action mailed February 26, 2003 is non-final, and was mailed after entry of Applicant's Response to the Examiner's Final Action mailed November 4, 2002, but prior to submission of Applicant's Appeal Brief. However, the Examiner has not expressly withdrawn the finality of the Office Action mailed November 4, 2002. Accordingly, Applicant infers that the Examiner has withdrawn the finality of the Office Action mailed

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Serial No. 09/489,929

November 4, 2002, in order to apply new grounds for rejection, as described at MPEP 706.07(e). Written confirmation by the Examiner would be appreciated.

35 U.S.C. § 102(b) Rejection

With respect to the Examiner's claim rejections under 35 U.S.C. § 102(b), the Examiner has asserted that Bergenlid et al. discloses all of the features of independent claims 1, 21 and 41. Specifically, the Examiner alleges that "the base station identify [sic] a poorly performing link and temporarily interrupting data transmission over the poorly performing wireless link (abstract, col. 2/ln. 29-36, col. 4/ln.31-56)." For the reasons set forth below, this interpretation of the Bergenlid et al reference cannot be supported by its disclosure, and the claim rejections based thereon cannot be sustained as a matter of law. For example, the Bergenlid et al reference recites:

"A method of forcibly disconnecting a communications connection established between a mobile station and a mobile services switching network, depending on whether the communications connection initially allocated to the mobile station has deteriorated or that a call connection or a handover attempt has failed." (abstract, first sentence, emphasis added)

The primary object of the present invention is to provide a method for disconnecting effectively a communications connection that has been established between a mobile station and a mobile radio network when, for some reason, communication becomes impaired, thus making it necessary to use another radio resource, and so that the current connection can be released, for instance so that the communications channel can be used by another mobile station. (col. 2/ln. 29-36, emphasis added)

"FIG. 3 is a signalling diagram (arrow diagram) which illustrates one embodiment of the present invention for forced disconnection of an established connection. It is assumed that a mobile station MS1 has a connection established with the base station BS over a given traffic channel TCH_k, and that the mobile station has moved with the result that this traffic channel has been impaired." (col. 4/ln. 34-40)

Thus, the passages cited by the Examiner directly and unambiguously contradict the Examiner's characterization of Bergenlid et al. In fact, it is self evident that Bergenlid et al do not

AMENDMENT UNDER 37 CFR § 1.111
Serial No. 09/489,929

teach, suggest, or even remotely contemplate the temporary interruption of data transmission through a poorly performing link, as alleged by the Examiner. Instead, Bergenlid et al clearly and unambiguously teach the "forced disconnection" of the impaired connection "so that the current connection can be released" and "the communications channel can be used by another mobile station". It is self evident that such a forced disconnection necessarily involves the permanent termination of data transmission through the involved communications connection.

For greater certainty, it is well known in the art that a "communications channel" and a "communications connection" are by no means equivalent. A "communications channel" is commonly understood to refer to a transmission path (e.g., a carrier frequency; a time slot in TDMA systems; and/or a spreading code in CDMA systems) through which data can be transmitted. In contrast, a "communications connection" is established between a pair of wireless devices (i.e. a base station and a mobile station) by allocating a communications channel to convey data traffic between the involved devices. In this sense, the "communications connections" of Bergenlid et al. are synonymous with the "wireless links" of the present invention. It is self evident that when a "communications connection" is disconnected, the channel is released and can be used for some other purpose, as taught explicitly by Bergenlid et al. At that point, however, the original (and now disconnected) connection ceases to exist, and all data transmission through that connection is permanently terminated. Further communication between the previously connected wireless devices is possible, but only by establishing a new communications connection.

Bergenlid et al clearly and unambiguously teach that a poorly performing communications connection is "forcibly disconnected". In so doing, Bergenlid et al teach directly away from the present invention, in which data transmission is temporarily interrupted, but without disconnecting the wireless link. Except for a brief discussion at col. 4/ln 37-54, Bergenlid et al. are utterly silent as to the manner in which a poorly performing link is detected, and indeed such details are entirely irrelevant to the system of Bergenlid et al. Bergenlid et al. are utterly silent as to resumption of data transmission through the disconnected communications connection, and indeed such operation is impossible. Resumption of data transmission between

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Serial No. 09/489,929

the base station and the mobile station necessarily requires establishment of a new communications connection, and Bergenlid et al. are utterly silent concerning any such operation

None of the known prior art teaches or suggests the missing subject matter. Accordingly, it is submitted that the present invention as defined in amended claims 1, 21 and 41 is clearly distinguishable over the prior art of record, and is patentable. The dependent claims 2-20, 22-40 and 42-54 are believed to define further patentable subject matter.

In light of the foregoing, it is submitted that the presently claimed invention is clearly and unambiguously distinguishable over the teachings of the cited references. Accordingly, it is believed that the present application is in condition for allowance, and early action in that respect is now courteously solicited.

If any extension of time under 37 C.F.R. § 1,136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,



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Date: May 23, 2003

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